

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

DELBERT MCNEIL, JR.	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-05-0601-F
	)	
DONNIE ANDERSON, et al.,	)	
	)	
Defendants.	)	

**ORDER**

This matter comes before the court on plaintiff's "Objection to Report and Recommendation" of Magistrate Judge Doyle W. Argo. (Objection at docket entry no. 11; Report at docket entry no. 9.) Plaintiff, who appears pro se and whose pleadings are liberally construed, brings this action pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights. The magistrate judge's report recommends that the complaint be dismissed upon filing, without prejudice, pursuant to Heck v. Humphrey, 512 U.S. 477 (1994).

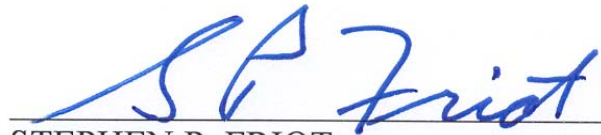
Plaintiff's objection to the report "confesses" that his criminal case and application for post-conviction relief are still pending. Plaintiff's objection, however, asks the court to deny the magistrate judge's recommendation to dismiss this case and asks the court to, instead, hold this case "in abatement until the post-conviction application is concluded."

As required by 28 U.S.C. § 636(b)(1), the court has reviewed de novo all of the plaintiff's grounds for objecting to the report, including plaintiff's request that this case be allowed to continue to pend. Having concluded that review, and based on the authorities cited by the magistrate judge in his report, the court finds that no purpose would be served by repeating the magistrate judge's analysis or findings here. The

court further finds and concludes that this action must be dismissed at this time under Heck v. Humphrey, 512 U.S. 477, 486-87 (1994), as recommended by the magistrate judge.

Accordingly, the magistrate judge's Report and Recommendation is **ACCEPTED, ADOPTED, and AFFIRMED** in its entirety, and this action is hereby **DISMISSED** without prejudice.

Dated this 26<sup>th</sup> day of July, 2005.

  
\_\_\_\_\_  
STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

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